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SENT ELECTRONICALLY

John Linc Stine, Commissioner (John.Stine@state.mn.us)
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

Rebecca Flood, Assistant Commissioner (Rebecca.Flood@state.mn.us)
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

RE: Mesabi Nugget Delaware, LLC, Variance and NPDES/SDS Permit MN0067687
U.S. EPA Disapproval of Variance

Dear Commissioner Stine, Assistant Commissioner Flood:

WaterLegacy has been involved in litigation against the United States Environmental Protection Agency (EPA) pertaining to the variance submitted by the Minnesota Pollution Control Agency (MPCA) for EPA approval on October 30, 2012 and approved by the EPA on December 27, 2012 affecting discharges by Mesabi Nugget Delaware, LLC (Mesabi Nugget) to Second Creek in the St. Louis River watershed and Lake Superior Basin. In our federal claims to the Minnesota District Court in *Water Legacy, et al. v. EPA*, No. 13-1323, we argued that the EPA's approval of a variance for Mesabi Nugget from Minnesota water quality standards for hardness, total dissolved salts, bicarbonates and specific conductance failed to comply with the federal Clean Water Act and regulations promulgated under the Act.

Pursuant to a remand order issued by the Minnesota District Court for the Minnesota District on June 2, 2014, EPA disapproved the water quality standards variance for discharges by Mesabi Nugget into Second Creek that would have been effective until August 1, 2021. On July 2, 2014, the EPA notified MPCA that the Mesabi Nugget variance had been disapproved. A copy of the Notice of Action on Remand provided to MPCA by EPA is attached to this letter (Attachment 1) for your convenience.

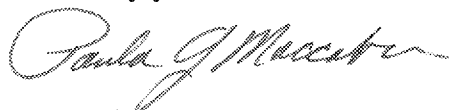
Although the MPCA requested on July 29, 2014 that the EPA reconsider its decision to disapprove the Mesabi Nugget variance, there is no applicable reconsideration procedure. EPA's July 2, 2014 variance disapproval is a final decision.

The NPDES/SDS permit MN0067687 issued by the MPCA for Mesabi Nugget, a copy of which is attached to this letter (Attachment 2), depended on the variance for the four pollutants described above to allow effluent limits exceeding Minnesota water quality standards during an "Interim Period" to which the variance applied. Since the EPA has disapproved the variance, the interim limits in the permit that relied on this variance are no longer valid or supportable.

In light of the EPA's disapproval of the Mesabi Nugget variance, WaterLegacy requests that the MPCA describe the process and timing whereby the MPCA plans to revise the NPDES/SDS permit issued to Mesabi Nugget to require compliance with Minnesota water quality standards for hardness, total dissolved salts, bicarbonates and specific conductance and/or the process and timing whereby the MPCA plans to revise the proposed variance in order to satisfy the requirements of the Clean Water Act and regulations promulgated under the Act. Please let us know the date(s) by which public notice of the revised permit and/or new variance are expected to be placed on public notice and summarize any actions taken to date to reach that goal.

Please do not hesitate to call me at 651-646-8890 if you have any questions regarding this matter.

Sincerely yours,



Paula Goodman Maccabee
Advocacy Director/Counsel for WaterLegacy

cc: Tinka Hyde (Hyde.Tinka@epa.gov)
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Enclosures